IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr.MP(M) No.570 of 2007.

Date of decision: 30.8.2007.

Reeta Devi ……. Petitioner

Vs.

State of H.P. …. Respondent.

Coram

The Hon'ble Mr. Justice Kuldip Singh, Judge.

Whether approved for reporting?*[1] *Yes

For the Petitioner : Mr. T.R. Chandel, Advocate.

For the Respondent M.L. Chauhan, Additional Advocate General.

Kuldip Singh, Judge. **(Oral)**

This is an application under Section 439 Cr.P.C. for releasing the applicant on bail in FIR No.43 of 2007 dated 4.2.2007 registered at Police Station, Palampur, District Kangra (HP) under Sections 372, 376(2)(g), 506 , 120-B IPC read with Sections 5,6 of The Immoral Traffic (Prevention) Act, 1956.

The brief facts are that a copy of Rapat No.9 dated 4.2.2007, Police Station, Joginder Nagar, District Mandi was received on 4.2.2007 at Police Station Palampur. As per rapat prosecutrix 'R' D/o late Pana Lal came along with her grand mother Suti Devi at about 1 p.m. at Police Station and submitted an application to SHO Joginder Nagar. It has been alleged that

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Whether the reporters of the local papers may be allowed to see the Judgment? Yes

prosecutrix aged about 14 years used to visit the shop of Partap Chand for purchasing Ration items, his wife Soma Devi one day called prosecutrix at her residence. She persuaded her to visit the house of her (Soma Devi) daughter and ultimately she (Soma Devi) took prosecutrix to the house of Rita Devi applicant at Hara Bagh. She was told that nothing happens by indulging in “Galat Kam” (sexual intercourse). The applicant has approached upto DSP and police can’t do anything. Next day applicant told the prosecutrix to meet her at Baijnath all alone and no body would suspect anything. The applicant later on took prosecutrix to Nagrota in some house. After some time one man came in that house and bolted the door of the room in which prosecutrix was sitting and started touching her. The prosecutrix raised alarm, applicant came from another room and bolted the door from out side. Thereafter that man committed forcible sexual intercourse with prosecutrix. Reeta Devi gave prosecutrix Rs.1000/- and left her at Baijnath, from there the proosecutrix came to Joginder Nagar. Reeta Devi second time took prosecutrix to Gopalpur and at that time another woman Punam was with her. There two persons committed forcible sexual intercourse with the prosecutrix, applicant paid prosoecutrix Rs.200/- and one mobile phone. After some days applicant took prosecutrix in a house at Palampur, at that place also two persons committed forcible sexual intercourse with prosecutrix. In the evening applicant dropped the prosecutrix at Baijnath and paid her Rs.500/-. The applicant threatened the prosecutrix not to disclose this fact to anyone otherwise she would be kidnapped. On this FIR was registered.

Heard and perused the record.

The learned counsel for the applicant has submitted that applicant has been implicated in a false case. The challan has been put up in the court but keeping in view long list of prosecution witnesses, the trial is likely to be

lengthy. The applicant being a woman is entitled to special consideration in law and she is entitled to bail. He has referred to cases ***Mt. Choki vs. The State [1957 RAJASTHAN 10 (S) AIR V 44 C.4 Jan], Smt. Bimla vs. The State of Haryana, [1982 C.C. Cases 185 (HC)***, ***Miss Neeta alias Anita Rani vs.State of Punjab and anr.[Recent C.R. 1983 (1) 218], Smt. Chander Pati Vs. The State of Punjab [Criminal Law Times (12) 1985 156]***, ***Bimal Kaur vs. That State of Punjab [Recent Criminal Reports (7) 1986 (1) 277***], ***Mohri Devi & Ors. vs State of Haryana [Recent Criminal Reports (8) 1986(2) 286***], and ***Priya Patel vs. State of M.P. & Anr. [AIR 2006 Supreme Court 2639]***, in support of his contention that woman accused is entitled to special consideration in law for granting bail. The learned Additional Advocate General has opposed the bail application. He has submitted that there are serious allegations against the applicant. She used innocent prosecutrix of tender age for flesh trade. There is specific evidence against applicant in the case.

The allegations against applicant are that on 20.1.2007 applicant took prosecutrix at Pops hotel Chachian Gopalpur and they stayed there in room No.201 and in adjoing room No.202 accused Rajesh Saini, Harinderpal Singh Sodi were already staying. Rajesh Saini and Harinderpal Singh Sodi took dinner in room No.202 with applicant and prosecutrix. Thereafter Rajesh Saini and Harinderpal Singh in presence of applicant committed sexual intercourse with prosecutrix in both the rooms and applicant also had physical relations with Rajesh Saini and Harinderpal Singh. Later on applicant paid Rs.1000/- to prosecutrix.

On 21.1.2007 applicant took prosecutrix at HPSEB Rest House, Palampur. There with the help of accused Happy, accused Nek Ram came and accused Hoshiar Singh opened room No.2 of the Rest House. Nek Ram

accused performed sexual intercourse with the prosecutrix and Hoshiar Singh accused performed sexual intercourse with the applicant. The applicant later on paid Rs.500/- and some vegetables to the prosecutrix.

There is further allegation that one day applicant took the prosecutrix in Baruni House, Khara Danda Road, Mcleodganj and they stayed there in room No.103. The applicant called one person there who disclosed his name to the prosecutrix as Babbu and told her that he is owner of J.K. Enterprises Fashion Point, Yol. All three of them stayed during the night in that room. In presence of applicant accused Babbu performed sexual intercourse with the prosecutrix and next day Babbu accused gave four sweaters and Rs.500/- to Reeta Devi and applicant Rita Devi gave one sweater and Rs.500/- to the prosecutrix. The accused Babbu has absconded and he has not yet been arrested.

On 31.12.2006 applicant and Punam Thakur took the prosecutrix in Chaudhary Cottage, Jogiwada Road, Mcleodganj and stayed there where three persons namely Rajiv, Gagga and Sushil were already staying. The new year eve was being celebrated there. The three accused Rajiv, Gagga and Sushil during night performed sexual intercourse with the applicant and Punam Thakur and in presence of applicant and Punam Thakur committed sexual intercourse with the prosecutrix. The applicant later on paid Rs.1000/- to the prosecutrix. The three accused Rajiv, Gagga and Sushil have absconded and therefore they could not be arrested.

There is further allegation that applicant Reeta came with two boys and prosecutrix in hotel Jagtamba Dad and stayed in that hotel in a room on the pretext of taking meals. These two boys disclosed their names Dipu and Patial , residents of Nagrota Bagwan. All four of them took meals in room No.208 and in presence of applicant these boys committed sexual intercourse

with the prosecutrix in room No.209. The accused Dipu and Patial have absconded and they could not be arrested.

There are serious allegations against the applicant. She pushed innocent prosecutrix of tender age in flesh trade. There are allegations that applicant herself is involved in prostitution. In presence of these serious allegations simply because the applicant is a woman she cannot be released on bail. I have gone through the case law relied upon by learned counsel. The facts in the present case are entirely different. The case law relied by learned counsel for applicant is not applicable in the present case in view of peculiar facts of present case It is not a case where under some circumstances a woman is involved in some isolated criminal act. There are series of allegations against the applicant that she took the prosecutrix from one place to another place and brought persons for committing sexual intercourse with prosecutrix . She arranged the customers, took money from them and other articles. Some of the accused have absconded and are not traceable. The applicant is involved in the commission of heinous crime. She is not entitled to any indulgence for grant of bail at this stage. The challan has already been filed in the Court. In case she is released on bail she is likely to influence the prosecution witnesses in as much as allegations are already against her that she is an influential lady. She earlier filed Cr.MP No.256 of 2007 in this Court for releasing her on bail in the case which was dismissed as not pressed on 8.5.2007. In her bail application in para-5, she has made a wrong statement that no similar petition was filed in this Court earlier. Thus, keeping in view of the facts and circumstances of the case and gravity of offence the applicant is not entitled to bail. Hence application dismissed.

The observations made in this order are for disposal of this application and these shall not be treated an expression of opinion on the merits of the case.

(Kuldip Singh)
Judge

August 30, 2007
(sks)